

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

DAMON LUTHER MAULDIN

PLAINTIFF

v.

CAUSE NO. 1:14CV54-LG-JCG

CORRECTIONAL MEDICAL ASSOCIATES
and HARRISON COUNTY, MISSISSIPPI

DEFENDANTS

**ORDER ADOPTING REPORT AND RECOMMENDATION
AND GRANTING MOTION TO DISMISS**

BEFORE THE COURT is the Report and Recommendation [29] entered by United States Magistrate Judge John C. Gargiulo, in which he recommends that the Motion to Dismiss [22] filed by Correctional Medical Associates (CMA) and joined [27] by Harrison County be granted due to the plaintiff Damon Luther Mauldin's failure to prosecute this lawsuit and failure to comply with Court orders. Mauldin has not objected to the Report and Recommendation, and the copy of the Report and Recommendation that was mailed to Mauldin was returned to the Court as undeliverable due to Mauldin's release from imprisonment. After reviewing the record in this matter and the applicable law, the Court finds that the Report and Recommendation should be adopted as the opinion of this Court, and the Motion to Dismiss filed by CMA and joined by Harrison County should be granted. Mauldin's lawsuit is dismissed pursuant to Fed. R. Civ. P. 41(b).

DISCUSSION

On February 18, 2014, Mauldin filed this lawsuit against CMA and Harrison County, alleging delay in medical and dental treatment during his incarceration. At the time that his lawsuit was filed Mauldin was incarcerated in the Harrison

County Detention Center, but it appears that he has since been released from custody. Mauldin has not communicated with this Court or complied with any orders entered since May 7, 2014, and he has not kept the Court informed of his correct address. The defendants ask the Court to dismiss Mauldin's lawsuit pursuant to Fed. R. Civ. P. 41(b). Judge Gargiulo entered a Report and Recommendation on July 21, 2015, in which he recommends that the defendants' request for dismissal should be granted. Mauldin has not responded or objected to the Report and Recommendation.

Where no party has objected to the Magistrate Judge's report and recommendation, the Court need not conduct a *de novo* review of it. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only satisfy itself that there is no clear error on the face of the record. *Douglass v. United Serv. Auto Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996).

Having conducted the required review, the Court finds that Judge Gargiulo's Report and Recommendation is neither clearly erroneous nor contrary to law. Mauldin's failure to communicate with this Court and comply with this Court's orders for over one year indicates that he has abandoned this lawsuit. Thus, dismissal pursuant to Fed. R. Civ. P. 41(b) is warranted.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Report and Recommendation [29] entered by United States Magistrate Judge John C. Gargiulo

is **ADOPTED** as the opinion of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that the Motion to Dismiss [22] filed by Correctional Medical Associates and joined [27] by Harrison County is **GRANTED**. This lawsuit is **DISMISSED** pursuant to Fed. R. Civ. P. 41(b).

SO ORDERED AND ADJUDGED this the 7th day of August, 2015.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE